

OGC HAS REVIEWED.

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May 2, 1949

Honorable Lindsay G. Warren
Comptroller General of the United States
General Accounting Office
Fifth and F Streets, N. W.
Washington, 25, D. C.

Dear Mr. Warren:

The National Security Resources Board has been authorized under its appropriation acts to utilize Section 15 of PL 600, 79th Congress. Certain questions have arisen with respect to the interpretation of the following part of that Section: "The head of any department ... may procure the temporary (not in excess of one year) or intermittent services of experts and consultants" [underscoring added.]

No question is raised in this letter as to when the hiring of experts and consultants is appropriate. Parenthetically, it may be noted that the policy of the NSRB is to limit the use of the authority of Section 15 to positions which cannot be filled from the rosters of the Civil Service Commission. The questions raised in this letter relate solely to the length of time for which experts and consultants may be hired.

It has been the practice of the NSRB to write all contracts for experts and consultants for periods not in excess of ninety days. When the further services of certain experts or consultants are desired, new contracts are executed for additional periods of ninety days or less. In the case of four employees who have served under a succession of such contracts, their continued employment will result in aggregate service in excess of one year.

Where specialized services lasting over a year are required to complete a given job, it would appear unfortunate to construe Section 15 as limiting the aggregate service rendered to a period of one year, particularly if no other equally qualified person is available. It would appear reasonable to construe Section 15 as limiting only the period of a contract for the temporary services of an expert or consultant. The chief objection to a long-term contract for such services is that, should the position become classifiable subsequent to the execution of the contract, it would nevertheless be difficult to fill the position with a classified employee until the contract expired. This objection does not apply to the use of short-term contracts which afford more frequent opportunity to review the possibility of classifying the position. If upon review it is found that the position still cannot be adequately filled from Civil Service rosters, it would appear to be in the

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interest of the Government to permit the re-employment of the expert or consultant, even if the aggregate service rendered may extend beyond one year.

The following specific questions have arisen in this regard:

1. Is a succession of short-term contracts, for full-time service, resulting in continuous employment exceeding one year, authorized by Section 15 of PL600?

2. Is employment in excess of one year under a series of contracts for part-time services so authorized?

If the answer to question 1, above, is in the negative, the following questions become important:

3. How long a period is necessary between contracts to break the continuity of service so that a new limit of one year would apply?

4. May an employee hired for one expert position under a series of contracts totalling less than a year, be immediately rehired for a different expert position for which he is qualified for a period which will make his aggregate employment exceed one year?

Sincerely yours,

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